



Judgment Reserved on: 18.06.2026
Judgment Pronounced on: 08.07.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

JUSTICE SHRI MANOJ KUMAR TIWARI

AND

JUSTICE SHRI PANKAJ PUROHIT

Writ Petition (S/B) No.344 of 2026

Mangal Singh Mandrawal

...Petitioner

Versus

State of Uttarakhand & another

...Respondents

Presence:-

Mr. Rajendra Dobhal, Senior Advocate, assisted by Mr. Shubhang Dobhal and Ms. Saloni Bitthal, Advocates for the petitioner.

Mr. SS Chaudhary, Brief Holder for the State of Uttarakhand

JUDGMENT: (per Hon'ble Justice Sri Manoj Kumar Tiwari)

Petitioner is a Government Servant, who is holding the position of Registrar in Kumaon University. After completing more than 30 years of service on 12.02.2026, he gave a notice for voluntary retirement to the Appointing Authority under Fundamental Rule 56(c) of Financial Handbook, Volume-II, Part II-IV. The said notice was forwarded by the Vice Chancellor on the same day with the endorsement that petitioner can be relieved after March 31, 2026. Petitioner thereafter



submitted a reminder on 12.05.2026, however, decision taken was not communicated to him till expiry of notice period of three months.

2. State Government thereafter issued one communication on 29.05.2026 informing the Vice Chancellor of Kumaon University that it is not possible to grant voluntary retirement to the petitioner due to shortage of personnel in the cadre of Registrar. Copy of said communication was addressed to the petitioner also. Thus, feeling aggrieved, petitioner has approached this Court seeking the following reliefs:-

“(i) Issue a writ order or direction in the nature of certiorari to call for record and quash the impugned order dated 29.05.2026 (Annexure No. 6 Page no. 27) passed by respondent rejecting the application for Voluntary Retirement of the petitioner.

(ii) Issue any order, writ or direction of mandamus directing the respondents to treat the petitioner voluntary retired since 12/05/2026”.

3. Learned counsel for the petitioner submits that there is no disciplinary proceeding pending or contemplated against petitioner; he has put in more than 30 years of service and he was more than 57 years of age, as such, was eligible for voluntary retirement, thus, there was no occasion for the State Government to turn down the request for voluntary



retirement made by petitioner.

4. Clause (c) of Fundamental Rule 56 provides that a Government servant, may by notice to the Appointing Authority voluntarily retire at any time after attaining the age of 45 years or after he has completed qualifying service of 20 years. Clause (d) of Fundamental Rule 56 provides that period of notice for voluntary retirement shall be three months. Clause (c) and (d) of Fundamental Rule 56 are extracted below:-

“(c) Notwithstanding anything contained in clause (a) or clause (b), the appointing authority may, at any time, by notice to any Government servant (whether permanent or temporary), without assigning any reason, require him to retire after he attains the age of fifty years or such Government servant may by notice to the appointing authority voluntarily retire at any time after attaining the age of forty-five years or after he has completed qualifying service of twenty years.

(d) The period of such notice shall be three months:

Provided that—

(i) any such Government servant may by order of the appointing authority, without such notice or by a shorter notice, be retired forthwith at any time after attaining the age of fifty years, and on such retirement the Government servant shall be entitled to claim a sum equivalent to the amount of his pay plus allowances, if any, for the period of the notice, or as the case may be, for the period by which such notice falls short of three months, at the same rates at which he was drawing immediately before his retirement;

(ii) it shall be open to the appointing authority to allow a Government servant to retire without any notice or by a shorter notice without requiring the Government servant to pay any penalty in lieu of notice:

Provided further that such notice given by the Government servant against whom a disciplinary proceeding is pending or contemplated, shall be effective only if it is accepted by the appointing authority, provided that in the case of a contemplated disciplinary proceeding



the Government servant shall be informed before the expiry of his notice that it has not been accepted:

Provided also that the notice once given by a Government servant under clause (c) seeking voluntary retirement shall not be withdrawn by him except with the permission of the appointing authority."

5. The moot question, which falls for consideration of this Court, is whether a notice for voluntary retirement becomes automatically effective upon expiry of notice period of three months or whether consent/acceptance of the Appointing Authority would be necessary for such notice to become effective.

6. Rule 56 *inter alia*, deals with voluntary retirement. Clause (c) of Rule 56 is in two parts, the first part enables the Appointing Authority to compulsorily retire a Government Servant after he attains the age of 50 years. The second part enables a Government servant to give notice for voluntary retirement to the Appointing Authority, upon attaining age of 45 years or upon completing qualifying service of 20 years. Thus, any Government servant, who has attained 45 years of age or has completed qualifying service of 20 years, can give notice for voluntary retirement to the appointing authority. The period of such notice is three months.



7. Second proviso to Clause (d) of Rule 56 ordains that notice given by a Government servant against whom disciplinary proceeding is pending or contemplated, shall become effective only when it is accepted by the Appointing Authority. It further provides that in case disciplinary proceeding is in contemplation against the Government servant, then he shall be informed before expiry of notice period that it has not been accepted.

8. Clause (c) of Rule 56 do not contemplate consent of or acceptance by the Appointing Authority and it creates a right in favour of a Government servant, who meets the eligibility conditions, to voluntarily retire from service. Thus, voluntary retirement is not akin to resignation in which acceptance by the Appointing Authority is needed. Moreover, in case of resignation, a Government servant may forfeit his right to get pension, but it is not so in case of voluntary retirement

9. Second proviso to Clause (d) of Rule 56 provides that acceptance of the notice for voluntary retirement by the Appointing Authority would be needed only in a case where disciplinary proceeding is



pending or contemplated against the Government servant. This leads to the irresistible conclusion that acceptance by the appointing authority to the notice for voluntary retirement would not be necessary in other cases. Thus, what is implicit in Clause (c) is made explicit by second proviso to clause (d) of Rule 56.

10. The latter half of second proviso to clause (d) indicates that the rule making authority was alive to the consequence of Appointing Authority not responding to the notice within notice period, therefore in the rules it was provided that in case disciplinary proceeding is contemplated, then the Government servant has to be informed about the same before expiry of notice period. This also indicates that in a case where disciplinary inquiry is not pending, but is in contemplation, unless the Government servant is informed about the said fact within the notice period, the notice would become effective upon expiry of three months.

11. Third proviso to Clause (d) of Rule 56 provides that notice for voluntary retirement, once given cannot be withdrawn, except with permission of the Appointing Authority. Thus, the statutory right to



give notice, once exercised binds the Government servant and it cannot be revoked thereafter, without consent of the Appointing Authority. This shows that once notice is given under clause (c) of Rule 56, it sets the process of voluntary retirement in motion and the Government servant is not at liberty to withdraw the same. Since the notice binds the Government servant, therefore, it is equally binding upon the Appointing Authority, who has to take decision within the window period of three months. Decision, if any, taken upon expiry of notice period is, thus of no avail as the notice becomes effective and the employer-employee relationship comes to an end.

12. In the present case, the notice was given by petitioner on 12.02.2026, which was forwarded by the Vice Chancellor to the State Government the same day with his recommendation. It is the case of the petitioner that notice was served upon Secretary, Higher Education on 12.02.2026. The three months notice period thus expired on 11.05.2026.

13. Petitioner earlier filed Writ Petition (S/B) No. 292 of 2026 on 21.05.2026, which was withdrawn with liberty to file fresh with better particulars. On



29.05.2026, Joint Secretary, Higher Education issued the impugned communication informing the Vice Chancellor that petitioner's request for voluntary retirement cannot be accepted due to shortage of personnel in the cadre of Registrar.

14. Since Clause (c) of Rule 56 creates a statutory right in favour of a Government servant to voluntarily retire from service and there was no disciplinary proceeding pending or contemplated against the petitioner, therefore, conjoint reading of clause (c) and second proviso to clause (d) of Rule 56 leads to the irresistible conclusion that the notice given by him became effective upon expiry of notice period and formal acceptance by the Appointing Authority was not needed at all. Thus, the decision of the State Government dated 29.05.2026 of not accepting the notice given by petitioner is inconsequential, as the notice became effective by operation of law and relationship of employer-employee came to an end upon expiry of period of notice.

15. For the aforesaid reasons, the writ petition stands allowed. Petitioner shall be treated to be voluntarily retired from service upon expiry of notice

(Manoj Kumar Tiwari, J.)

08.07.2026

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